Privacy 201
Training for Supervisors

The Privacy Act of 1974

5 U.S.C. 552a

PRIVACY REFRESHER

From Privacy 101, you know that the Privacy Act is . . .

- " . . . a means to regulate the collection, use, and safeguarding of personal data."

- A statute that applies to the Executive Branch of the Federal government.

PRIVACY REFRESHER

In Privacy 101, you also learned that the Privacy Act:

- Applies to U.S. Citizens & Lawfully Admitted Aliens
- Covers "Systems of Records" – A Group of Files that
  - Contains a personal identifier (name, SSN, badge #, etc.)
  - Contains one other element of personal data
  - Is retrieved by personal identifier
- Provides Citizens/Lawful Aliens with Guaranteed Rights –
  - To access/amend their records
  - To appeal agency decisions
  - To sue for breaches

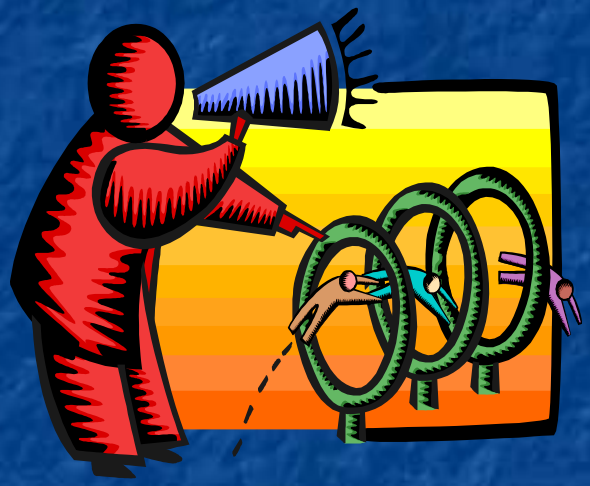
PRIVACY REFRESHER

Privacy 101 also taught you that:

- Agencies may not collect data without first publishing a system notice in the Federal Register announcing the collection.
- The system notice sets the rules for collecting, using, sharing, and safeguarding data.
- The DON and Government-Wide Privacy Act system notices are at http://www.privacy.mil

Do you Supervise Employees, Military Members, or Contractors Who . . .

- Initiate data collections?
- Receive Privacy data in the course of conducting DON business?
- Create, manage, or oversee files or databases containing personal data?
- Disseminate personal data?



If "Yes," You Have a Duty to Ensure that . . .

- Your staff receives Privacy Act training.
- No data collection is undertaken unless DON has published a system notice covering the collection.
- Access to data is limited to those employees specifically assigned to the program – not all office employees!
- Data is transmitted in a secure manner.
- Data is safeguarded during and after duty hours.
- Your staff is complying with the Privacy Act, DoD Privacy rules (DoD 5400.11-R), and the DON Privacy Act Fair Information Principles.

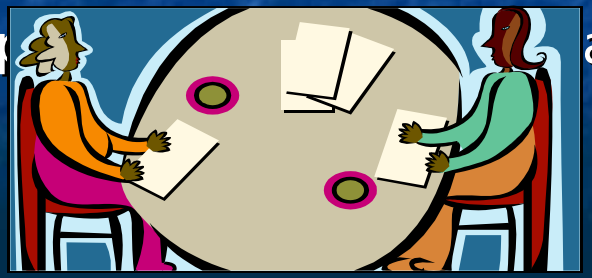
SUPERVISOR'S ROADMAP FOR MEETING PRIVACY RESPONSIBILITIES

- Is Your Staff Privacy-Trained?
  - Ensure your staff annually reviews the Privacy 101 training and DON Privacy Act Fair Information Practices, both available at http://www.privacy.navy.mil

- Are Your Data Collections Properly Conducted?
  - Ensure your staff consults with the Privacy Office before –
    - Initiating new data collections.
    - Adding new elements to an existing, approved database.
    - Creating or revising forms that collect personal data.
    - Deploying surveys.
  - Ensure your staff includes a Privacy Act Statement on all forms, surveys, or websites that collect perso ta.

SUPERVISOR'S ROADMAP FOR MEETING PRIVACY RESPONSIBILITIES

- Do You and Your Staff Practice Limited Access Principles?
  - Grant access to only those specific employees who require the record to perform specific assigned duties.
  - Your staff must closely question other DON individuals who ask for your data.
    - Why do they need it? How will it be used?
    - Is the purpose comp al purpose of the collection?



SUPERVISOR'S ROADMAP FOR MEETING PRIVACY RESPONSIBILITIES

Are Your Workers Transmitting Personal Data Properly?

- Do not use "holey joes" or interoffice mail envelopes to route personal data. Use sealable, opaque envelopes addressed to an authorized recipient.
- When E-mailing personal data –
  - Use Common Access Card protocols to ensure confidentiality.
  - Verify that each addressee is an authorized data recipient.

SUPERVISOR'S ROADMAP FOR MEETING PRIVACY RESPONSIBILITIES

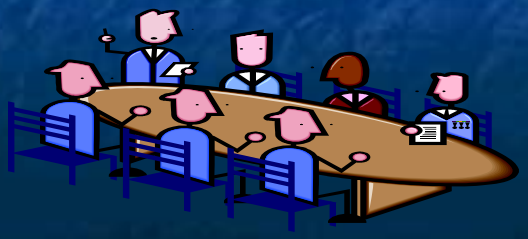
- Is Your Staff Safeguarding Personal Data?
  - Mark records "For Official Use Only – Privacy Sensitive" when created.
  - For e-records, include "For Official Use Only-Privacy Sensitive" on data screens and in headers/footers of printouts.
  - Place records in file cabinets, overhead bins, or desk drawers for overnight storage.
  - Cover paper records when a third party enters the workspace.
  - Use filter screens on terminals to blacken angular views.

SUPERVISOR'S ROADMAP FOR MEETING PRIVACY RESPONSIBILITIES

- Is Your Staff Following the DON Privacy Act Fair Information Principles?
  - Periodically ask your staff to review the DON Code of Fair Information Principles (See www.privacy.navy.mil)
  - Immediately report to you, the Privacy Act Office, or the Information Technology staff instances of personal data posted to public or shared websites, E-workplace, shared calendars, or shared drives.

Keeping Privacy at Top of Mind

- Use Staff Meetings to Stress Good Privacy Practices.
  - Voice your commitment to protecting individual privacy.
  - Applaud workers who practice good privacy principles!
  - Remind staff to use caution when posting data to shared drives, e-workplace, or multi-access calendars.
    - Post no personal data.
    - Periodically review shared devices for compliance.
- Question Workers Who Leave Personal Data in the Open.



Keeping Privacy at Top of Mind - Continued

- Question Employees Who Fail to Lock Terminals When Leaving the Work Area.
- Scrutinize Proposed New Data Collections and Surveys.
  - Ask project managers to consult with the Privacy Act Office.
- Contracting out a Function?
  - Include the Federal Acquisition Regulation Privacy clauses in the contract. (FAR 52-224-1 & 52.224-2)
  - Include language in the contract addressing how the data is to be disposed of at contract end.
  - Contact the Privacy Office for more requirements.

Supervising Privacy Act System Managers

A “System Manager” is an individual assigned to oversee, manage, direct, and control a Privacy Act system of records. System managers require specialized Privacy Act training.

- System Manager Duties:
  - Comply with 32 CFR 323 and DoD 5400.11-R.
  - Follow Rules in the Published System Notice.
  - Respond to First-Party Access and Amendment Requests.
  - Determine if Third-Party Disclosures are Authorized.
  - Maintain an Accounting of all Third-Party Disclosures.
  - And More!
- System Managers may not institute changes to a system without first consulting with the Privacy Act Office.
- Encourage your System Managers to work closely with the DON/CMC Privacy Offices in executing their duties.

Discussing Privacy Matters

- When discussing a person's health, financial affairs, personnel actions, criminal history, family affairs, or other personal aspect of his or her life, it is important to remember that details should not be brought up in staff meetings or discussed in common areas.
- Personal matters should never be discussed with anyone without a strict need to know.

What are Some Examples of Personal Data?

PERSONAL DATA

- Electronic & physical home address and phone number
- Type of leave used (but not administrative or holiday)
- Performance rating
- Health, financial, & medical data
- Misconduct information
- On the job injury data
- Gov't-paid, personal development training, e.g. –
  - "Rid Yourself of Debt"
  - "Coping with your Unruly Child"
  - "Beating your Drug Habit"

NON-PERSONAL DATA

- Position description & duties
- Job title, series, and grade
- Duty address (but not overseas)
- Duty schedule (days & hours)
- Gov't paid, work-related training, e.g. –
  - "Providing Good Customer Service"
  - "Become a Great Public Speaker"
  - "Principles of Grammar"

Recall Rosters

Employees are encouraged to give supervisors their home telephone numbers, but they do not have to agree to share them with co-workers.

- **If an employee objects to having his/her telephone number placed on a recall roster:**
  - List “Unlisted” or “Unpublished” instead of home number.
  - Arrange to call the employee yourself during alerts or exercises.
- **Remember to mark the recall roster “For Official Use Only-Privacy Sensitive” – Any misuse or unauthorized access may result in both civil and criminal penalties.**
- **Instruct your staff that the roster is to be used for official purposes only and kept in a secure location.**

WHEN DATA MAINTAINED BY DON OR DON CONTRACTORS IS LOST, STOLEN, OR COMPROMISED . . .

- Notify affected individual(s) within 10 days.
- Coordinate notification with the Privacy Act Office.

- Covered Individuals:
  - Military members and retirees.
  - Civilian employees (appropriated or non-appropriated).
  - Family members of a covered individual.
  - Other individuals affiliated with DoD (e.g., volunteers).

- As a minimum, advise individual of:
  - Data elements involved.
  - Circumstances surrounding the incident.
  - What protective actions the individual can take.

LOST, STOLEN, OR COMPROMISED DATA (Continued)

- Multiple or Unidentifiable Individuals Involved?
  - Provide generalized notice to the potentially affected population.
- Can’t Notify the Individual Within 10 Days?
  - Notify CNO (DNS-36) immediately.
  - Include reason for delay (e.g., notification delayed at request of law enforcement authorities).

PRIVACY CRIMINAL PENALTIES

- What Privacy Violations May Lead to Criminal Penalties?
  - Collecting data w/o meeting the Federal Register publication requirement.
  - Sharing data with unauthorized individuals.
  - Acting under false pretenses.
  - Facilitating those acting under false pretenses.
- Penalties:
  - Misdemeanor Charge (jail time of up to one year).
  - Fines of up to $5,000.

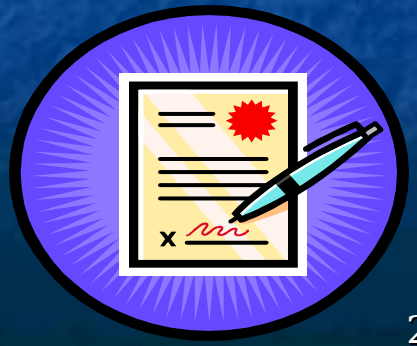
PRIVACY CIVIL PENALTIES

- What Privacy Violations May Lead to Civil Penalties?
  - Unlawfully refusing to amend a record or grant access.
  - Failure to maintain accurate, relevant, timely, and complete data.
  - Failure to comply with any Privacy Act provision or agency rule that results in any adverse effect.

- Penalties:
  - Actual Damages
  - Attorney Fees
  - Removal from Employment

THE DON CODE OF PRIVACY ACT FAIR INFORMATION PRINCIPLES

- To assure personal information submitted to DON is properly protected, DON has devised a "Code of Privacy Act Fair Information Principles."
- The "Code of Privacy Act Fair Information Principles" consists of 10 policies that the DON workforce will follow when handling personal information.
- The "Code" is our promise to citizens/lawful aliens that we will safeguard and properly use their data.



THE DON CODE OF FAIR INFORMATION PRINCIPLES

1. **The Principle of Openness: When we collect personal data fro we will inform you of the intended uses of the data, the disclos that will be made, the authorities for the collection, and whet collection is mandatory or voluntary. We will collect no data su to the Privacy Act unless a Privacy Act system notice has been published in the Federal Register and posted on the Master Lis Privacy Act Systems or Records Notices website, available at: http://www.privacy.navy.mil.**

2. **The Principle of Individual Participation: Unless DON has clai exemption from the Privacy Act, we will, upon request, grant y to your records; provide a list of disclosures made outside the Department of Defense; and make corrections to your file if sh to be in error.**

3. **The Principle of Limited Collection: DON will collect only those data elements required to fulfill an official function or mission g in law. Those collections will be conducted by lawful and fair m**

THE DON CODE OF PRIVACY ACT FAIR INFORMATION PRINCIPLES

4. **The Principle of Limited Retention: DON will retain your personal information only as long as necessary to fulfill the purposes for w is collected. Records will be destroyed in accordance with establ records management principles.**

5. **The Principle of Data Quality: DON will strive to maintain only a relevant, timely, and complete data about you.**

6. **The Principle of Limited Internal Use: DON will use your personal only for lawful purposes. Access to your data will be limited to th Department of Defense individuals with an official need for acces**

7. **The Principle of Disclosure: DON employees and military membe zealously guard your personal data to ensure that all disclosures with your written permission or are made in strict accordance wit Privacy Act.**

THE DLA CODE OF FAIR INFORMATION PRINCIPLES

8. The Principle of Security: Your personal data is protected by app safeguards to ensure security and confidentiality. Electronic syst be periodically reviewed for compliance with the security princip the Privacy Act, the Computer Security Act, and related statutes tronic collections will be accomplished in a safe and secure mann

9. The Principle of Accountability: DON and our employees, military members, and contractors are subject to civil and criminal penalt for certain breaches of Privacy. DON is diligent in sanctioning inc who violate Privacy rules.

10. The Principle of Challenging Compliance: You may challenge DO you believe that DON has failed to comply with these principles, t Act, or the rules in a system of records notice. Challenges may be addressed to the person accountable for compliance with this Co local Privacy Act manager, CNO (DNS-36) or CMC (ARSF)..

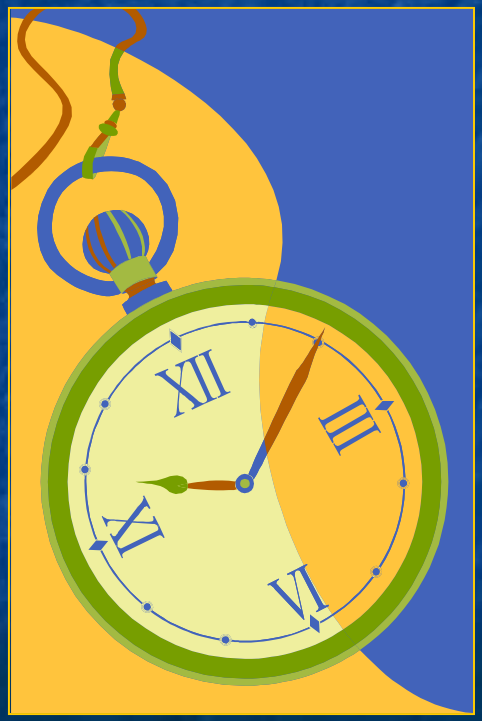
SIDEBAR: SUPERVISOR'S NOTES
Are they personal or agency records?

Supervisor's notes are sometimes requested under the Freedom of Information Act (FOIA). "Personal" records of employees are excluded from FOIA coverage. Below are some questions that are examined when determining whether supervisor's notes would be considered an "agency" record or a "personal" record:

- Were they created on government time?
- Were they shared with other employees/officials?
- Were they filed with official agency records?
- Were they used in the decisionmaking process?
- Were they required to be created by rule, policy, or custom?

Sidebar: Supervisor's Notes
Were the notes created on Government time?

- "Agency records" are generally those documents that are created or received in the course of conducting agency business. Despite that definition, not all files created on Government time are automatically regarded as "agency" records.
- The reverse is also true. Records you create on your personal time may rise to "agency" records - depending on how they are used and filed within DON.
- So the use of government time is not always 100% determinative. Thus, the timing of creation must be examined in conjunction with the others factors.

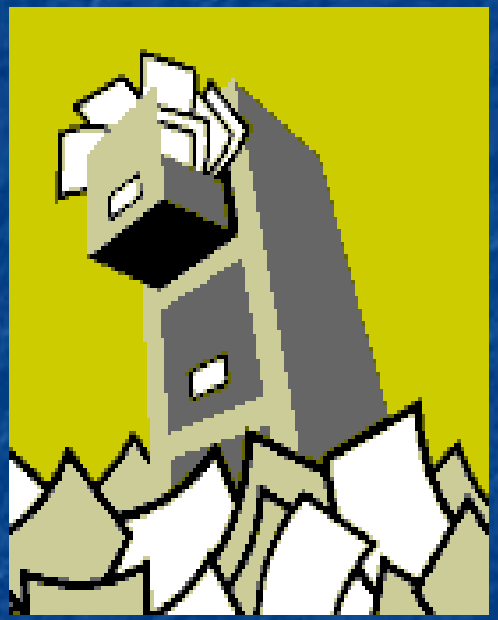


Sidebar: Supervisor's Notes
Were the notes shared with other employees?

- Once you share your notes with Human Resources, Counsel, or other third parties, they generally lose their "personal" status.
- Keeping your notes close-hold until the time is ripe to share them protects employee privacy and allows you to make fair decisions unencumbered by special interest concerns.

Sidebar: Supervisor's Notes
Were the notes filed with official agency records?

- Once notes are filed with official agency records, they lose their "personal record" status.
- Filing them separately, such as in a locked desk drawer or your briefcase, helps protect their "personal" status.



Sidebar: Supervisor's Notes Were they used in the decisionmaking process?

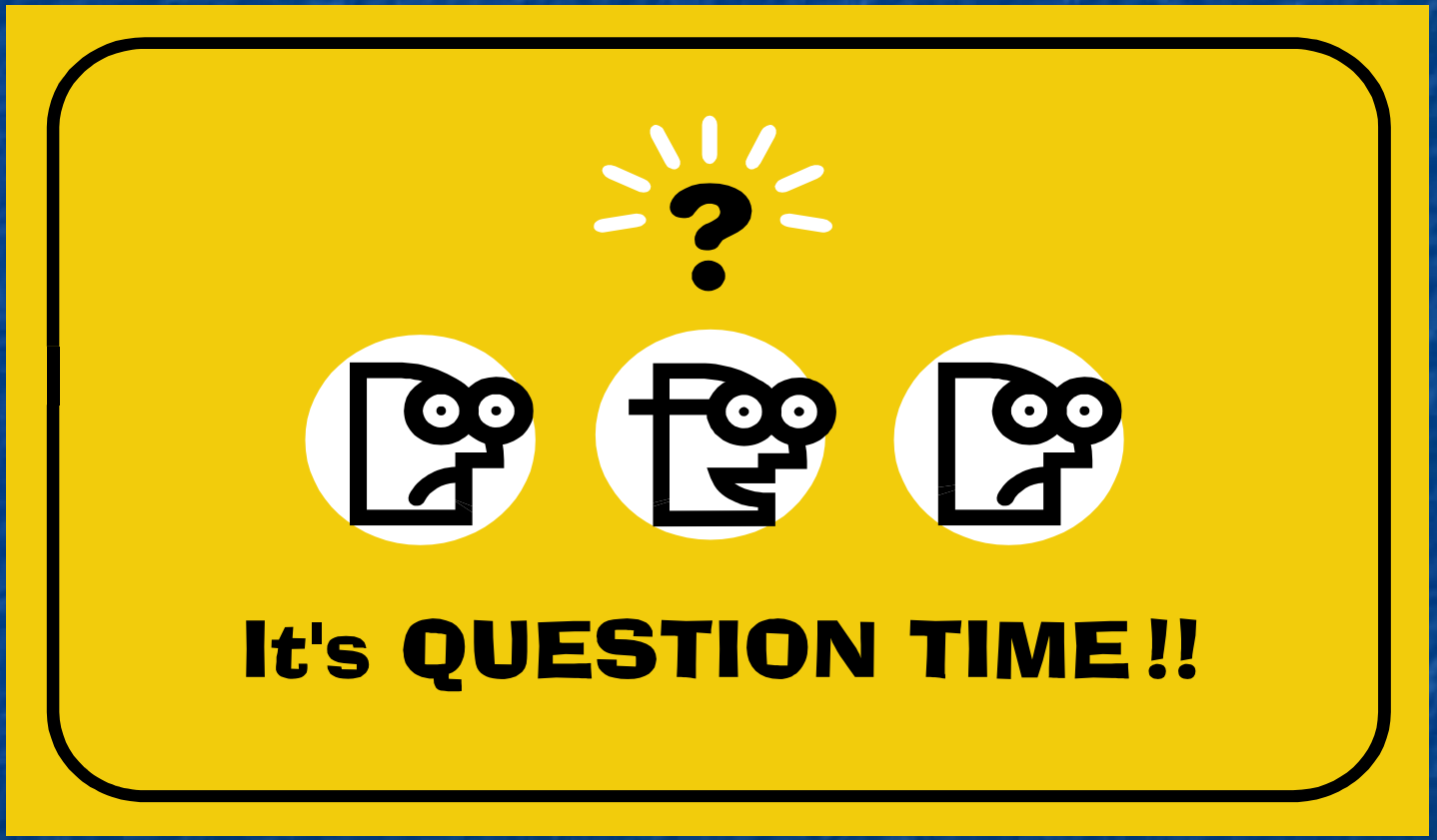
- Generally, once supervisors use their notes in deciding employee appraisals, taking disciplinary actions, rewarding exceptional workers, or similar uses, the notes become "agency" records.
- In adverse action situations, the notes may be required to be disclosed to the employee as part of the disciplinary process.

Sidebar: Supervisor's Notes Were they required to be created by rule, policy, or custom?

- In some cases, the taking of notes is required to be accomplished by rule, policy, or custom. In those cases, the notes would be deemed to be "agency" records.
- Examples:
  - Notes taken by a recording secretary during a meeting.
  - Notes taken by an individual assigned to route incoming emergency telephone calls.
  - Notes taken by an individual assigned to receive Defense "Hotline" telephone calls.

CONCLUSIONS

You and your staff are entrusted with the personal information of others. You are the first line of defense in safeguarding privacy and protecting DON from damaging lawsuits.


It's QUESTION TIME!!

9 Questions to Test your Knowledge!
(Answers appear on the slide immediately following)

Q1: Which of the following is not a goal of the Privacy Act?

a. Keeping personal information out of the hands of government.

b. Eliminating "secret" file systems by letting the public know about data collections.

c. Establishing and guaranteeing rights of data subjects.

d. Establishing rules for collecting, using, and safeguarding data.

The Answer to Q1 is a. See Slides 2, 3, and 4.

Q2: The Privacy Act protects:

a. Only U.S. citizens and lawfully admitted aliens.

b. Federal, state, and local government workers only.

c. All individuals and business entities.

d. All of the above.

The Answer to Q2 is a. See Slide 3.

Q3: The Privacy Act covers data held in "systems of records." A "system" consists of –

a. Any group of files maintained electronically.

b. A group of files containing Social Security Numbers.

c. A group of files that are retrieved by personal identifier and contain, in addition to identifier, one other element of personal data about the individual.

d. None of the above.

The Answer to Q3 is c. See Slide 3.

Q4: Who must comply with the Privacy Act?

a. All U.S. citizens.

b. All Executive Branch Federal employees, military members, and Federal contractors.

c. Only supervisors of persons who collect or maintain personal information in a system of records.

d. Only those persons who collect and use data.

The Answer to Q4 is b. See Slides 2, 5, and 6.

Q5: Which of the following would generally be inappropriate to discuss at your next staff meeting?

a. The upcoming week's work schedule.

b. Your serious commitment to Privacy Act principles and your expectations of staff.

c. The good work of one employee in meeting a short deadline.

d. The fact that you are considering disciplinary action against an employee based on notes you've been keeping.

The answer to Q5 is d for 2 reasons: (1) Prematurely discussing details in your notes could cause them to lose their "personal record" status. (2) Any discussion with staff should not occur until after the action is approved. Even then, details should be limited to those core facts the staff needs to know.
See Slides 12, 24, and 28.

Q6: The penalties for violating the Privacy Act include which of the following?

a. Jail time of up to one year.
b. Fines of up to $5,000.
c. Removal from employment.
d. All of the above

The Answer to Q6 is d. See Slides 20 and 21.

Q7: Which of the following statements are true?

a. Supervisors have a duty to ensure their staff members comply with the Privacy Act.

b. Supervisors may waive Privacy requirements during peak periods of heavy work provided the waiver is in writing.

c. Supervisors must ensure their staff members have received Privacy training.

d. Supervisors may recommend disciplinary action for a staff member who fails to follow Privacy rules.

e. All are true.

The correct answers to Q7 are a, c, and d. No individual has the authority to waive Privacy Act compliance.
See Slides 6, 7, and 25.

Q8: Supervisors need not be concerned with the safeguarding of electronic records since that is controlled by the Information Technology staff.

True or False?

Q8 is false. While the Information Technology staff establishes technical protocols to protect data, supervisors have a duty to ensure that staff members are following those protocols and that breaches are reported. See Slides 6, 9 and 11-13.

Q9: Which of the following statements are true regarding the use of shared calendars?

a. It is ok to show that an employee is on sick leave.

b. It is ok to show that an employee is teleworking.

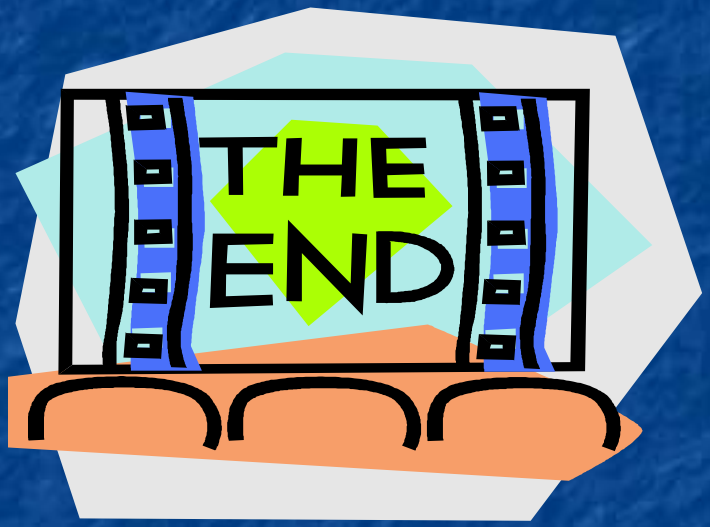
c. It is ok to show that an employee is away at a professional meeting.

d. It is ok to show that an employee is on a compressed day off.

e. It is ok to show that an employee is on LWOP.

f. It is ok to show that an employee is on leave.

For Q9, answers b, c, d, and f are correct. The use of sick, annual, family, religious, LWOP or AWOL should never be entered on shared calendars. See Slides 12 and 16.



Thank you for completing this important training!
Questions? Contact Doris Lama, 202-685-6545

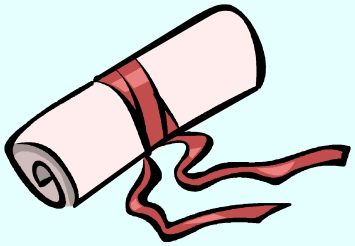
Certificate of Completion

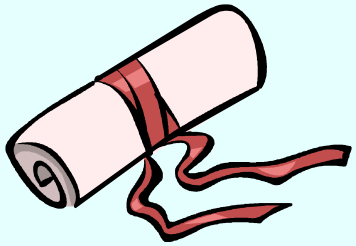
Congratulations on your completion of

Privacy Act 201

PA Training for all

DON Supervisors





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